



Approved for use through 10/31/2002. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)</b>		Docket Number (Optional)
<div style="display: flex; justify-content: space-between;"><div style="width: 60%;"><p>First named inventor: L. Pernille Olesen</p><p>Application Number: 09/655,262</p><p>Filed: 09/05/2000</p><p>Title: Miniature Rose Plant Named 'TOULmist'</p><p>Attention: Office of Petitions Assistant Commissioner for Patents Box DAC Washington, D.C. 20231</p></div><div style="width: 35%; text-align: right;"><p>Group Art Unit: 1661</p><p>Examiner: Howard Locker</p></div></div> <p style="text-align: center; margin-top: 20px;">NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.</p> <p style="text-align: center; margin-top: 20px;"><b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</b></p> <p>NOTE: A grantable petition requires the following items:</p> <ul style="list-style-type: none"><li>(1) Petition fee;</li><li>(2) Reply and/or issue fee;</li><li>(3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995, and for all design applications; and</li><li>(4) Adequate showing of the cause of unavoidable delay</li></ul> <p>1. Petition fee</p> <p><input checked="" type="checkbox"/> small entity - fee \$ <u>55.00</u> (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> other than small entity - fee \$ _____ (37 CFR 1.17(l)).</p> <p>2. Reply and/or fee</p> <p>A. The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):</p> <p><input type="checkbox"/> has been filed previously on _____.</p> <p><input checked="" type="checkbox"/> is enclosed herewith.</p> <p>B. The issue fee of \$ _____</p> <p><input type="checkbox"/> has been paid previously on _____.</p> <p><input type="checkbox"/> is enclosed herewith.</p>		

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Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity of \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

9 September 2002  
Date

Gary R. Pellett  
Signature

Telephone

Number: (541) 245 8850Gary R. pellett

Typed or printed name

620 S. Front Street

Address

Central Point, OR 97502Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unavoidable delay☒ Return receipt postcard**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

9/9/2002  
Date

Thomas J. Schuetz  
Signature

Thomas J. Schuetz

Typed or printed name of person signing certificate



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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

1/24/03  
Date

Gary R. Pellett  
Signature

gary R. Pellett

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

Upon receiving the office communication dated 11/20/2000, the Applicants spoke with Ms. Dolores Dillard of the USPTO. This conversation is reflected in the attached conversation log.

The Office Communication indicated that the Applicant had failed to supply an "path or declaration". The Applicant related to Ms. Dillard that according to the photocopy of the submitted application, a declaration had indeed been submitted.

Ms. Dillard, who indicated that she had a copy of the application in front of her, agreed that she could plainly see the submitted declaration.

The Applicant then asked if there was anything further required in order to resolve the issue raised in the Notice of Missing Parts. Ms. Dillard responded that nothing further was required of the Applicant in this matter.

For that reason, the Applicant respectfully submits that the delay in responding to the Notice of Missing Parts dated 5 August, 2002 was unavoidable, in that the Applicant was unaware that any further response was required.

(Please attach additional sheets if additional space is necessary)